

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
AMARILLO DIVISION

CLERK US DISTRICT COURT
NORTHERN DIST. OF TX
FILED

2014 FEB 25 AM 10:50

DEPUTY CLERK *ENB*

JIMMY DIAZ, PRO SE,	§	
TDCJ-CID No. 1737301,	§	
Previous TDCJ-CID No. 475593,	§	
Previous TDCJ-CID No. 721195,	§	
Previous TDCJ-CID No. 1201534,	§	
	§	
Plaintiff,	§	
	§	
v.	§	2:13-CV-0080
	§	
C. McDUFFIE, Warden, and D. NASH, Major,	§	
BRAD LIVINGSTON, and RALPH BATES,	§	
	§	
Defendants.	§	

ORDER OF DISMISSAL

Plaintiff JIMMY DIAZ, while a prisoner confined in the Texas Department of Criminal Justice, Correctional Institutions Division, filed suit pursuant to Title 42, United States Code, section 1983 complaining against the above-named defendants and has been granted permission to proceed *in forma pauperis*.

On January 23, 2014, the Magistrate Judge issued a Report and Recommendation analyzing plaintiff's claims and recommending dismissal without prejudice for failure to state a claim on which relief can be granted.

Plaintiff filed his Objections February 13, 2014. By his objections, plaintiff provides a restatement of his allegations; however, review of these objections shows plaintiff still has not provided facts which show the named defendants had knowledge of facts from which they could infer there was a substantial risk of serious harm to plaintiff, made the necessary inference, and were, nevertheless, indifferent to such risk.

The Court has made an independent examination of the records in this case and has examined the Magistrate Judge's Report and Recommendation, as well as the objections filed by the plaintiff.

The Court is of the opinion that plaintiff's objections should be OVERRULED and the Report and Recommendation of the United States Magistrate Judge should be ADOPTED by the United States District Court.

This Court, therefore, does OVERRULE plaintiff's objections, and does hereby ADOPT the Report and Recommendation of the United States Magistrate Judge.

IT IS THEREFORE ORDERED that the Civil Rights Complaint by JIMMY DIAZ is DISMISSED WITHOUT PREJUDICE FOR FAILURE TO STATE A CLAIM ON WHICH RELIEF CAN BE GRANTED.

LET JUDGMENT BE ENTERED ACCORDINGLY.

The Clerk shall send a copy of this order to plaintiff and to any attorney of record. The Clerk shall also mail copies of this order to the Pro Se Clerk at the U.S. District Court for the Eastern District of Texas, Tyler Division.

It is SO ORDERED.

Signed this the 25th day of February, 2014.



MARY LOU ROBINSON
United States District Judge